

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

In Re:)	
)	
Garrett Enterprises, Inc.,)	Bankruptcy No. 23-60252-can12
)	
Debtor.)	

CREDITOR FIRST STATE BANK’S MOTION TO DISMISS

COMES NOW First State Bank (hereinafter “Bank”) by and through its attorneys of record, and pursuant to 11 U.S.C. § 1208, hereby moves the Court for an Order dismissing the Debtor’s Chapter 12 proceeding for cause, and in support thereof states as follows:

1. Debtor, Garrett Enterprises, Inc., filed for relief under Chapter 12 of the United States Bankruptcy Code on May 10, 2023, and has continued in possession of its real and personal property.
2. Richard Fink was appointed Chapter 12 Trustee in this matter. The Court has jurisdiction over the matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a Court proceeding. The Debtor has filed its Schedules in the matter, and the Section 341 Meeting has been conducted.
3. Bank is the holder of a Secured Proof of Claim with a mortgage filed in the State of Wyoming. Bank’s Proof of Claim indicates there is sufficient equity in the collateral to pay the debt in full.
4. The Debtor has indicated through its Schedules and Operating Reports that it lacks regular and stable income to sustain contractual debt service to Secured Creditors, or to fund a possible reserve for unexpected repairs and replacement on its equipment.

5. The Debtor, at the Section 341 Meeting indicated that it does not have sufficient supplies to carry on its agricultural business during the Chapter 12 proceedings.

6. The Debtor's Farm Summary, Bankruptcy Schedules, and past tax returns indicate that no substantial disposable income will be available for payment to Secured Creditors or any Unsecured Creditors or to fund any possible reserve for unexpected repairs or replacements.

7. The Debtor is not proposing a liquidation of assets.

8. Pursuant to 11 U.S.C. § 1208, on the request of a party in interest, and after notice and hearing, the Court may dismiss the case where there is continuing loss to, or diminution of the estate, and an absence of a reasonable likelihood of rehabilitation.

9. Debtor's two principals are unable to adequately rehabilitate the organization and continuing loss, or a Chapter 7 liquidation is forthcoming.

WHEREFORE, Bank requests that the Court enter an order dismissing the case, and for such other and further relief as the Court deems just in the premises.

LOWTHER JOHNSON, LLC

By: /s/ Lee J. Viorel
Lee J. Viorel, #36886
901 St. Louis Street, 20th Floor
Springfield, MO 65806
Office: (417) 866-7777
Fax No: (417) 866-1752
lviorel@lowtherjohnson.com

*Attorneys for Creditor,
First State Bank, a Division of Glacier Bank*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served by electronic notice or by United States Mail, First Class postage prepaid, this 30th day of June 2023, to:

Debtor's Attorneys

Ryan A. Blay
Wm Law
15095 W 116th St.
Olathe, KS 66049
913-422-0909

Email: bankruptcy@wagonergroup.com

Trustee

Richard Fink
2345 Grand Blvd., Suite 1200
Kansas City, MO 64108-2663
info@wdmo13.com

Attorney for U.S. Trustee

Adam E. Miller
Office of the United States Trustee
400 E. 9th St., Ste. 3440
Kansas City, MO 64106
adam.e.miller@usdoj.gov

/s/ Lee J. Viorel

Lee J. Viorel, #36886